



Billing Code: 8025-01

SMALL BUSINESS ADMINISTRATION

Docket No. SBA-2015-0013

Community Advantage Pilot Program

AGENCY: U.S. Small Business Administration.

ACTION: Notice of extension of and changes to Community Advantage Pilot Program and request for comments.

SUMMARY: The Community Advantage (“CA”) Pilot Program is a pilot program to increase SBA-guaranteed loans to small businesses in underserved areas. The Small Business Administration (“SBA”) continues to refine and improve the design of the Community Advantage Pilot Program. To support SBA’s commitment to expanding access to capital for small businesses and entrepreneurs in underserved markets, SBA is issuing this Notice to extend the term of the CA Pilot Program and lay out a plan for its evaluation regarding whether it should be made permanent, improve the effectiveness of the program, expand program eligibility to new organizations, and to revise other program requirements, including certain regulatory waivers.

DATES: Effective Date: The changes to the CA Pilot Program identified in this Notice will be effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]. The CA Pilot Program will remain in effect until March 31, 2020.

Comment Date: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments, identified by SBA docket number SBA-2015-0013 by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Community Advantage Pilot Program Comments – Office of Economic Opportunity, U.S. Small Business Administration, 409 Third Street, SW, Suite 8300, Washington, DC 20416.

- Hand Delivery/Courier: Grady B. Hedgespeth, Director, Office of Economic Opportunity, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416.

SBA will post all comments on www.regulations.gov. If you wish to submit confidential business information (CBI) as defined in the User Notice at www.regulations.gov, please submit the information to Grady B. Hedgespeth, Director, Office of Economic Opportunity, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416, or send an email to communityadvantage@sba.gov.

Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Grady B. Hedgespeth, Director, Office of Economic Opportunity, U.S. Small Business Administration, 409 Third Street, SW, Washington, DC 20416; (202) 205-7562; grady.hedgespeth@sba.gov.

SUPPLEMENTARY INFORMATION:

1. Background

On February 18, 2011, SBA issued a notice and request for comments introducing the CA Pilot Program (76 FR 9626). The CA Pilot Program was introduced to increase

the number of SBA-guaranteed loans made to small businesses in underserved markets. The February 18, 2011 notice provided an overview of the CA Pilot Program requirements and, pursuant to the authority provided to SBA under 13 CFR 120.3 to suspend, modify or waive certain regulations in establishing and testing pilot loan initiatives, SBA modified or waived as appropriate certain regulations which otherwise apply to 7(a) loans for the CA Pilot Program.

Subsequent notices have made changes to the CA Pilot Program to improve the program experience for participants, improve their ability to deliver capital to underserved markets, and appropriately manage risk to the Agency. These notices were issued on the following dates: September 12, 2011 (76 FR 56262), February 8, 2012 (77 FR 6619), and November 9, 2012 (77 FR 67433). To further support SBA's commitment to expanding access to capital for small businesses and entrepreneurs in underserved markets, SBA is issuing this notice to further revise program requirements as described more fully below.

The CA Pilot Program is currently set to expire March 15, 2017. With this notice, SBA is extending the pilot program until March 31, 2020. This extension will allow for additional time to evaluate the pilot, and if warranted, begin the process for it to be made permanent. SBA will evaluate the pilot in accordance with criteria that would be applicable to 7(a) pilot programs generally, including whether: the pilot is achieving its objective(s), the costs (including losses) of the pilot are within an acceptable range, sufficient numbers and types of lenders are using the pilot, and there is a continuing need for the pilot. SBA also will evaluate the CA Pilot Program to assess its effect along the following additional indices among others: success in reaching the CA underserved

markets, impact on job creation and retention, portfolio performance based on initial projections and as it relates to other 7(a) programs, and impact on business creation and/or business expansion. Based on the findings of the evaluation, SBA will refine the program and undergo rulemaking to make the program permanent, if appropriate.

2. Comments

Although the changes to the CA Pilot Program will be effective [INSERT DATE OF PUBLICATION IN FEDERAL REGISTER], comments are solicited from interested members of the public on all aspects of the CA Pilot Program, including whether the pilot program should be made permanent. Comments must be submitted on or before the deadline for comments listed in the DATES section. The SBA will consider these comments and the need for making any revisions as a result of these comments.

3. Changes to the Community Advantage Pilot Program

The Community Advantage Participant Guide is being updated to reflect the changes below and will be available on SBA's website at www.sba.gov.

a. 7(a) Small Loan Procedures & Delegated Authority Procedures

On October 10, 2014, SBA issued Policy Notice 5000-1324, Streamlining CA Pilot Program. The Notice included: the adoption of the SBA 7(a) Small Loan credit standards that includes the use of a credit score upon submission of the application to SBA; the adoption of 7(a) Small Loan procedures when closing and disbursing CA loans; and the revision of the procedures to request delegated authority that more closely aligns with the procedures for 7(a) lenders to acquire Preferred Lenders Program (PLP) authority. The Notice also provided that CA Lenders could be authorized to begin processing applications under their delegated authority after making an initial

disbursement on at least five CA loans. These policy changes are being incorporated into a revised Community Advantage Participant Guide (version 4.0), which will be issued upon publication of this Federal Register Notice.

b. Expanded CA Program Eligibility

The original February 18, 2011, Notice (76 FR 9626) introducing the CA Pilot Program limited program eligibility to three types of entities: SBA Microloan Intermediaries, SBA Certified Development Companies (“CDCs”) and non-federally regulated Community Development Financial Institutions (“CDFIs”) certified by the U.S. Treasury. SBA is expanding the eligible organizations to include SBA Intermediary Lending Pilot (ILP) Program Intermediaries authorized under Section 7(l) of the Small Business Act (15 USC 636(l)).

c. CA Loan Sales

The February 18, 2011 Notice (76 FR 9626) introducing the CA Pilot Program prohibited CA Lenders from including CA loans in certain participant lender financings such as loan participations and securitizations. In order to implement this prohibition, SBA waived the regulations at 13 CFR 120.420 through 120.435.

In a subsequent Federal Register Notice published on September 12, 2011 (76 FR 56262), SBA recognized that these prohibitions can restrict the ability of CA Lenders to obtain access to capital or other streams of revenue necessary to support their CA lending. Therefore, in order to permit CA Lenders to pledge loans as collateral for certain lender financings, SBA discontinued the waiver of the regulations at 13 CFR 120.420, 120.430-120.431 (only with respect to pledges), and 120.434.

SBA will now allow CA Lenders to sell entire CA loans or an entire CA loan portfolio under limited circumstances. Therefore, SBA is no longer waiving 13 CFR 120.430, 120.431, 120.432(a), and 120.433 (only with respect to the sale of an entire CA loan). SBA will continue to waive 13 CFR 120.432(b) & (c), and therefore, CA Lenders may not sell, or sell a participating interest in, a part of a CA loan. CA Lenders must follow the same regulations and SOP requirements as 7(a) lenders with respect to loan sales with the following important modification: the sale of an entire CA Loan or CA loan portfolio requires the approval of the Director of SBA's Office of Credit Risk Management (D/OCRM). Although sales of a CA loan or CA loan portfolio are not permitted as a normal course of business in CA lending, in the event that a sale is necessary as part of a lender's withdrawal from the CA Pilot Program for example, the CA Lender must make a concerted effort to sell such loans to a capable and financially viable CA Lender. If no CA Lender is interested, capable or financially viable to purchase the CA loan(s), then the loan(s) may be sold to a 7(a) Lender with SBA's prior written consent, which SBA may withhold in its sole discretion. The D/OCRM will make the final determination on whether to approve such transactions. No changes are being made to the requirements for CA Lenders to sell the guaranteed portion of a CA Loan on SBA's Secondary Market.

d. Debt Refinancing

All debt refinancing in the CA Pilot Program must meet the requirements for refinancing set forth in SOP 50 10 5(H), Subpart B, Chapter 2, Paragraph IV.E., with two modifications discussed below.

1. Under SOP 50 10 5(H), Subpart B, Chapter 2, Paragraph IV. E. 3, in order to refinance certain debts, the lender must demonstrate that the new loan will result in a 10 percent improvement in the Small Business Applicant's cash flow. For CA loans, however, the lender must demonstrate either:

(a) a 10 percent improvement in cash flow; or

(b) that the CA loan exceeds the amount being refinanced by at least \$5,000 or 25 percent, whichever is greater.

2. Under SOP 50 10 5(H), Subpart B, Chapter 2, Paragraph IV. E. 5, when a lender seeks to use SBA-guaranteed loan proceeds to refinance non-SBA guaranteed, same institution debt, it must include a transcript showing the due dates and when payments were received as part of its analysis and recommendation for the prior 36 months, or the life of the loan, whichever is less. In addition, the lender must explain in writing any late payments and late charges that have occurred during the last 36 months. However, for CA loans refinancing non-SBA guaranteed, same institution debt, the lender must instead include a transcript showing due dates and six months of timely payments for the most recent six month period. If there are any late payments in the most recent six month period, the debt may not be refinanced with a CA loan. Late payments are defined as any payment made beyond 29 days of the due date.

e. Revised Oversight Strategy

SBA is revising the oversight strategy for CA Lenders to better align with the PARRiS analytical review protocol introduced in SBA Policy Notice 5000-1332 on December 29, 2014. Components of PARRiS include Portfolio performance, Asset management, Regulatory compliance, Risk management, and Special items. SBA's

reviews for CA Lenders include quarterly compliance reviews, lender profile assessments, analytical reviews, targeted reviews and/or full reviews. SBA conducts reviews and examinations of CA Lenders in accordance with 13 CFR 120.1025 through 120.1060 and SOPs 50 53(A), 51 00, and 50 10 5(H), as revised from time to time. The type of review or whether a safety and soundness examination is performed may depend on the risk associated with the CA Lender and its SBA portfolio.

f. Revised Deadline for Annual Report

Currently, all SBA Supervised Lenders are required by 13 CFR 120.464(a)(1) to submit an annual report with audited financial statements within 90 days of the end of the fiscal year. SBA is revising this reporting deadline for CA Lenders and requiring that this report instead be submitted within 120 days after the end of the CA Lender's fiscal year. In order to accomplish this change, SBA is modifying 13 CFR 120.464(a)(1), but only with respect to timing, to require submission of the annual report within 120 days after the end of the CA Lender's fiscal year.

g. Expanded Underserved Market Definition

The original February 18, 2011, Notice (76 FR 9626) introducing the CA Pilot Program defined underserved markets to include: Low-to-moderate income communities; Empowerment Zones and Enterprise Communities; HUBZones; New businesses; Businesses eligible for Patriot Express, including Veteran-owned businesses; and Firms where more than 50% of their full time workforce is low-income or resides in LMI census tracts. SBA is revising this program definition to include designated Promise Zones¹ as an underserved market.

¹ The Promise Zone Initiative is a Presidential plan that seeks to partner with local communities and businesses to create jobs, increase economic security, expand educational opportunities, increase access to

In addition, the original February 18, 2011 Notice (79 FR 9626) identified businesses eligible for SBA's Patriot Express Pilot Loan Initiative as an eligible underserved market. The Patriot Express Pilot Loan Initiative expired December 31, 2013; therefore, the applicable language in the revised Community Advantage Participant Guide has been changed to read "businesses eligible for SBA Veterans Advantage." (For information on SBA Veteran's Advantage, see SBA's website at www.sba.gov.)

h. Correction of Regulatory Waiver

The original February 18, 2011 Notice (76 FR 9626) included a waiver of 13 CFR 120.852(a). That regulation, which prohibits a CDC from investing in or being an affiliate of a lender participating in the 7(a) loan program, was moved to 13 CFR 120.820(c) effective April 21, 2014 (79 FR 15641). Therefore, in order to continue allowing CDCs or their affiliates to participate in the CA Pilot Program, SBA is waiving 13 CFR 120.820(c).

i. Application Forms

The original Notice required that CA Lenders utilize the application forms required of the Small/Rural Lenders Advantage (S/RLA) process, as set forth in SOP 50 10 5(C). As of October 1, 2013, that process ceased to exist. CA lenders now utilize the forms used for all SBA 7(a) lending processing methods: SBA Form 1919 ("Borrower Information Form") and SBA Form 1920 ("Lender's Application for Guaranty for All 7(a) Programs"). In addition, CA Lenders must also submit the CA Addendum (SBA Form 2449) with all CA loan applications.

quality, affordable housing and improve public safety. The first five Zones, located in San Antonio, Philadelphia, Los Angeles, Southeastern Kentucky, and the Choctaw Nation of Oklahoma, have each put forward a plan on how they will partner with local business and community leaders to make investments

4. General Information

The changes in this notice are limited to the CA Pilot Program only. All other SBA guidelines and regulatory waivers related to the CA Pilot Program remain unchanged.

SBA has provided more detailed guidance in the form of a Participant Guide which is being updated and is available on SBA's website at www.sba.gov. SBA may provide additional guidance, through SBA notices, which may also be published on SBA's website at <http://www.sba.gov/category/lender-navigation/forms-notices-sops/notices>. Questions regarding the CA Pilot Program may be directed to the Lender Relations Specialist in the local SBA district office. The local SBA district office may be found at <http://www.sba.gov/about-offices-list/2>.

Authority: 15 U.S.C. 636(a)(25) and 13 CFR 120.3.

Dated: December 17, 2015.

Maria Contreras-Sweet,
Administrator.

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that reward hard work and expand opportunity. (<https://www.whitehouse.gov/the-press-office/2014/01/08/fact-sheet-president-obama-s-promise-zones-initiative>)